

Decision 01-03-031 March 15, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ARCO Products Company, A Division of Atlantic
Richfield Company ("ARCO") and Mobil Oil
Corporation ("Mobil"),

Complainants,

vs.

SFPP, L.P.,

Defendant.

Case 00-04-013
(Filed April 10, 2000)

ORDER EXTENDING STATUTORY DEADLINE

Pub. Util. Code § 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of initiation unless the Commission makes findings why that deadline cannot be met and issues an order extending that deadline. In this proceeding, the 12-month deadline for resolving the complaint is April 10, 2001. The complaint by ARCO Products Company, A Division of Atlantic Richfield Company (ARCO) and Mobil Oil Corporation (Mobil) was filed on April 10, 2000, alleging that Defendant SFPP, L.P. (SFPP) has violated and continues to violate Pub. Util. Code § 451 by charging rates that are not just and reasonable for the intrastate transportation of refined petroleum products within the State of California.

Also pending before the Commission is an Application (A.) by SFPP, A.00-03-044, for authority to justify its rates based upon market factors. ARCO and Mobil, as well as other petroleum shippers, protested the Application. Although the two proceedings are independent and were not consolidated,¹ both proceedings were heard together at one evidentiary hearing February 1 through 5, 2001. The established post-hearing briefing schedule has opening briefs due March 16, 2001, and reply briefs due April 13, 2001. It is anticipated that the matter will be submitted upon receipt of the reply briefs and that the Presiding Officer's Decision (POD) will be issued 60 days thereafter. If there is a further delay, the Presiding Officer will issue a ruling revising the schedule.

Besides the matters pending before this Commission, the same parties are also simultaneously involved in proceedings before the Federal Energy Regulatory Commission (FERC). Because of the scheduling logistics involved in calendaring proceedings both in Washington D.C. and California, the parties and their attorneys were not available for evidentiary hearings in Case (C.) 00-04-013 before February 2001.

As discussed above, much must be done after hearing and before the decision resolving this proceeding. Therefore, C.00-04-013 cannot be resolved by the April 10, 2001, statutory deadline.

Under Rule 77.7(f)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of draft decisions extending the deadline for resolving adjudicatory proceedings.

¹ After the complaint was filed on April 10, 2000, SFPP brought a motion to consolidate the complaint with the application. At the Prehearing Conference on June 28, 2000, the assigned administrative law judge (ALJ) denied SFPP's motion to consolidate, but ordered that the proceedings be combined for purposes of the evidentiary hearing.

Accordingly, pursuant to Rule 77.7(f)(4), the otherwise applicable Pub. Util. Code § 1701.2(d) statutory deadline for public review and comment is being waived.

Findings of Fact

1. This proceeding was initiated on April 10, 2000.
2. Based upon the 12-month statutory deadline, this proceeding must be resolved on or before April 10, 2001, unless this date is extended.
3. The schedules of the parties and their attorneys did not allow for the scheduling of evidentiary hearings until February 1, 2001. Based on that hearing schedule, briefing will not be complete until April 13, 2001. The current schedule allows insufficient time to resolve this proceeding before the 12-month statutory deadline runs. Therefore, the statutory deadline cannot be met.
4. It is anticipated that the matter will be submitted upon receipt of the reply briefs and that the POD will be issued 60 days thereafter. If there is a further delay, the Presiding Officer will issue a ruling revising the schedule.

Conclusion of Law

The 12-month statutory deadline imposed by Pub. Util. Code § 1701.2(d) should be extended, effective immediately, until further order.

IT IS ORDERED that the 12-month statutory deadline in this proceeding, April 10, 2001, is extended until further order.

This order is effective today.

Dated March 15, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners